

Message Text

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TO AMEMBASSY BELGRADE PRIORITY

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E.O. 11652: N/A

TAGS: PFOR, YO

SUBJECT:ARTUKOVIC

1. THE DISTRICT COURT OF LOS ANGELES HAS OVERTURNED A RULING BY THE REGIONAL COMMISSIONER OF THE INS WHICH WOULD HAVE PERMITTED THE DEPORTATION OF ARTUKOVIC IN THE ABSENCE OF A COMPELLING REASON NOT TO DO SO. STATING THAT THE RULING BY THE REGIONAL COMMISSIONER WAS A VIOLATION OF ARTUKOVIC'S DUE PROCESS RIGHTS, THE COURT VOIDED THAT RULING IN AN ORAL DECISION ON AUGUST 15. THE DECISION BY THE COURT WAS STRICTLY ON PROCEDURAL GROUNDS AND DID NOT ADDRESS THE MERITS OF THE ARTUKOVIC CASE.

2. INS IS NOW CONSIDERING THREE OPTIONS FOR FUTURE ACTION. THE FIRST OPTION WOULD BE TO APPEAL THE DISTRICT COURT'S RULING TO THE CIRCUIT COURT. THIS APPEAL WOULD QUESTION THE DISTRICT COURT'S FINDING THAT THE ACTION OF THE INS REGIONAL COMMISSIONER DEPRIVES ARTUKOVIC OF
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HIS DUE PROCESS RIGHTS. WHILE REFUSING TO MAKE A DEFINITE STATEMENT AT THIS TIME, A LAWYER FOR INS STRONGLY INTIMATED THAT THIS WOULD BE THE OPTION CHOSEN.

3. A SECOND POSSIBILITY WOULD BE FOR INS TO ASK THE BOARD OF IMMIGRATION APPEALS TO RECONSIDER ITS 1959

DECISION PROHIBITING THE DEPORTATION OF ARTUKOVIC.
COUNSEL FOR INS BELIEVES THIS OPTION WOULD PROBABLY
PROVE FRUITLESS AS THE APPEALS BOARD REOPENS HEARINGS
ONLY WHEN NEW EVIDENCE HAS BEEN PRODUCED AND NO SUCH
EVIDENCE EXISTS FOR ARTUKOVIC.

4. FINALLY, INS COULD SUSPEND ITS EFFORTS TO DEPORT
ARTUKOVIC. AS INS APPEARS DETERMINED TO PURSUE THIS
CASE, THIS OPTION HAS VIRTUALLY BEEN FORECLOSED.

5. BECAUSE OF FEDERAL COURT REGULATIONS, INS MUST
DECIDE WITHIN THE NEXT TEN DAYS WHAT COURSE OF ACTION
TO ADOPT. WE WILL KEEP YOU INFORMED. VANCE

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